

MONTANA LEGISLATIVE HISTORY

Chapter 708 19 91

Bill H 994 S _____

Original bill & history ✓ c

H. Committee on <u>Human Services & Aging</u>	S. Committee on <u>Public Health, Welfare, & Safety</u>
Hearing Date(s) <u>3/22</u> <u>✓</u> c	Hearing Date(s) <u>4/10</u> <u>✓</u> c
_____ c	_____ c
_____ c	_____ c
_____ c	_____ c
Date Out <u>3/22</u> <u>✓</u> c	<u>4/10</u> <u>✓</u> c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

3/14 FISCAL NOTE REQUESTED
 3/20 FISCAL NOTE RECEIVED
 3/21 FISCAL NOTE PRINTED
 3/27 HEARING
 3/27 TABLED IN COMMITTEE

HB 993 INTRODUCED BY ZOOK, ET AL.

REQUIRE PARENTAL CONTRIBUTIONS FOR
 THE COST OF OUT-OF-HOME CARE

3/14	INTRODUCED		
3/14	REFERRED TO TAXATION		
3/14	FIRST READING		
3/14	FISCAL NOTE REQUESTED		
3/19	FISCAL NOTE RECEIVED		
3/21	FISCAL NOTE PRINTED		
3/27	HEARING		
3/28	COMMITTEE REPORT—BILL PASSED AS AMENDED		
4/03	2ND READING PASSED	98	2
4/03	ON MOTION RULES SUSPENDED TO ALLOW 3RD READING THIS DAY		
4/03	3RD READING PASSED	97	3
	TRANSMITTED TO SENATE		
4/04	FIRST READING		
4/04	REFERRED TO JUDICIARY		
4/10	HEARING		
4/11	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/15	2ND READING CONCURRED	48	0
4/16	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/18	2ND READING AMENDMENTS CONCURRED	96	2
4/19	3RD READING AMENDMENTS CONCURRED	96	2
4/23	SIGNED BY SPEAKER		
4/23	SIGNED BY PRESIDENT		
4/23	TRANSMITTED TO GOVERNOR		
4/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 696		

EFFECTIVE DATE: 7/01/91

HB 994 INTRODUCED BY S.J. HANSEN, ET AL.

SWIMMING POOL LICENSURE
 BY REQUEST OF DEPARTMENT OF HEALTH
 AND ENVIRONMENTAL SCIENCES

3/15	INTRODUCED		
3/15	REFERRED TO HUMAN SERVICES & AGING		
3/15	FIRST READING		
3/15	FISCAL NOTE REQUESTED		
3/19	FISCAL NOTE RECEIVED		
3/21	FISCAL NOTE PRINTED		
3/22	HEARING		
3/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
4/02	2ND READING PASSED	54	42
4/04	3RD READING PASSED	56	43
	TRANSMITTED TO SENATE		
4/04	FIRST READING		
4/04	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
4/10	HEARING		
4/11	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/15	2ND READING CONCURRED	23	21
4/16	3RD READING CONCURRED	36	13
	RETURNED TO HOUSE WITH AMENDMENTS		
4/18	2ND READING AMENDMENTS CONCURRED	90	9
4/19	3RD READING AMENDMENTS CONCURRED	64	33

HOUSE FINAL STATUS

HB 996

4/23 SIGNED BY SPEAKER
 4/23 SIGNED BY PRESIDENT
 4/23 TRANSMITTED TO GOVERNOR
 4/27 SIGNED BY GOVERNOR
 CHAPTER NUMBER 708

EFFECTIVE DATE: 04/27/91 - SECTIONS 2, 6, 20

EFFECTIVE DATE: 01/01/92 - SECTIONS 1, 3-5, 7-19

HB 995 INTRODUCED BY HARPER, ET AL.

WORKERS' COMPENSATION BONDS ISSUED
 TO PAY UNFUNDED LIABILITY

3/15	INTRODUCED		
3/15	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/15	FIRST READING		
3/15	FISCAL NOTE REQUESTED		
3/20	FISCAL NOTE RECEIVED		
3/22	HEARING		
3/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/23	FISCAL NOTE PRINTED		
4/01	2ND READING PASSED AS AMENDED	85	12
4/03	3RD READING PASSED	89	11
	TRANSMITTED TO SENATE		
4/08	ON MOTION RULES SUSPENDED TO ALLOW FOR LATE INTRODUCTION	45	4
4/09	FIRST READING		
4/09	REFERRED TO BUSINESS & INDUSTRY		
4/12	HEARING		
4/12	COMMITTEE REPORT—BILL CONCURRED		
4/16	2ND READING CONCURRED	31	17
4/17	TAKEN FROM 3RD READING AND PLACED ON 2ND READING	41	6
4/17	2ND READING CONCURRED AS AMENDED		
4/17	ON MOTION RULES SUSPENDED TO PLACE ON 3RD READING THIS DAY	41	6
4/17	3RD READING CONCURRED		
	RETURNED TO HOUSE WITH AMENDMENTS		
4/18	2ND READING AMENDMENTS NOT CONCURRED	98	1
4/19	CONFERENCE COMMITTEE APPOINTED		
4/25	CONFERENCE COMMITTEE REPORT NO. 1		
4/25	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	95	4
4/25	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	95	3
4/25	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	91	6
	SENATE		
4/22	CONFERENCE COMMITTEE APPOINTED		
4/25	CONFERENCE COMMITTEE REPORT NO. 1		
4/25	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	47	2
4/25	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	44	5
4/29	SIGNED BY SPEAKER		
4/29	SIGNED BY PRESIDENT		
5/06	TRANSMITTED TO GOVERNOR		
5/17	SIGNED BY GOVERNOR CHAPTER NUMBER 797		

EFFECTIVE DATE: 7/01/91

HB 996 INTRODUCED BY REAM, ET AL.

IMPOSE A STATE INCOME TAX BASED ON A
 PERCENTAGE OF THE FEDERAL INCOME TAX

3/16 INTRODUCED

1 HOUSE BILL NO. 994
 2 INTRODUCED BY Jeffrey Dolezal
 3 Jeffrey Dolezal BY REQUEST OF THE DEPARTMENT OF HEALTH AND
 4 ENVIRONMENTAL SCIENCES

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE LICENSING
 7 OF PUBLIC SWIMMING POOLS AND PUBLIC BATHING PLACES;
 8 AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL
 9 SCIENCES TO ADMINISTER A LICENSING PROGRAM AND TO ADOPT
 10 RULES; ESTABLISHING LICENSE FEES; PROVIDING FOR THE
 11 VALIDATION OF LICENSES BY LOCAL HEALTH OFFICERS OR BOARDS;
 12 AUTHORIZING THE DEPARTMENT TO ENTER INTO COOPERATIVE
 13 AGREEMENTS FOR THE INSPECTION OF PUBLIC SWIMMING POOLS AND
 14 PUBLIC BATHING PLACES AND FOR ENFORCEMENT; PROVIDING FOR THE
 15 PAYMENT OF A PORTION OF THE FEES TO LOCAL GOVERNMENTS FOR
 16 INSPECTION AND ENFORCEMENT; PROVIDING FOR ADMINISTRATIVE AND
 17 JUDICIAL ENFORCEMENT; PROVIDING FOR THE RECOVERY OF
 18 ENFORCEMENT COSTS AND FOR CIVIL PENALTIES; AMENDING SECTIONS
 19 50-53-102, 50-53-103, AND 50-53-104, MCA; AND PROVIDING
 20 EFFECTIVE DATES."

21 STATEMENT OF INTENT

22
 23 A statement of intent is required for this bill because
 24 [section 2] requires the department of health and
 25 environmental sciences to adopt rules relating to licensing

1 of public swimming pools and public bathing places,
 2 enforcement procedures, cooperative agreements, procedures
 3 for hearings to be held by local boards of health, and
 4 performance standards for local boards of health, health
 5 officers, and sanitarians. Sanitation and safety standards
 6 contained in rules already adopted by the department and
 7 currently published in Title 16, chapter 10, subchapters 12,
 8 13, and 15, Administrative Rules of Montana, may be
 9 incorporated into new department rules as standards for
 10 licensing public swimming pools and public bathing places.

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 50-53-102, MCA, is amended to read:

14 **"50-53-102. Definitions.** As used in this chapter,
 15 unless the context clearly indicates otherwise, the
 16 following definitions apply:

17 (1) "Department" means the department of health and
 18 environmental sciences, provided for in Title 2, chapter 15,
 19 part 21.

20 (2) "Local board of health" or "board" means a local
 21 board as defined in 50-2-101.

22 (3) "Local health officer" or "officer" means a local
 23 health officer as defined in 50-2-101.

24 (4) "Person" means a person, firm, partnership,
 25 corporation, organization, the state, or any political

1 subdivision of the state.

2 ~~†3†~~(5) "Public bathing place" means a body of water
3 with bathhouses and related appurtenances operated for the
4 public.

5 ~~†4†~~(6) "Public swimming pool" means an artificial pool
6 and bathhouses and related appurtenances for swimming,
7 bathing, or wading, including natural hot water pools. The
8 term does not include:

9 (a) swimming pools located on private property used for
10 swimming or bathing only by the owner, members of his
11 family, or their invited guests; or

12 (b) medicinal hot water baths for individual use."

13 **Section 2.** Section 50-53-103, MCA, is amended to read:

14 **"50-53-103. Sanitation-and-safety Department rules.** (1)
15 The department shall adopt rules relating to the operation
16 of public swimming pools and public bathing places,
17 including rules:

18 (a) setting standards to ensure sanitation and safety in
19 public swimming pools and public bathing places to protect
20 public health and safety;

21 (b) relating to the licensing of operators of public
22 swimming pools and public bathing places;

23 (c) providing procedures for the enforcement of the
24 laws and rules relating to public swimming pools and public
25 bathing places;

1 (d) relating to cooperative agreements between the
2 department and local boards of health; and

3 (e) setting performance standards for local boards of
4 health, local health officers, and sanitarians to meet as a
5 condition to receipt of funds provided by the department
6 pursuant to [section 17].

7 (2) Any rule relating to the design, construction,
8 reconstruction, alteration, conversion, repair, inspection,
9 or use of buildings or installation of equipment in
10 buildings is effective only when it has been adopted by the
11 department of commerce as part of the state building code
12 and filed with the secretary of state pursuant to
13 50-60-204."

14 **Section 3.** Section 50-53-104, MCA, is amended to read:

15 **"50-53-104. Powers of health officers -- enforcement**
16 authority. Authorized employees of the department and local
17 boards of health may:

18 (1) at reasonable times inspect public swimming pools
19 and public bathing places and otherwise conduct
20 investigations to determine if provisions of this chapter
21 and rules of the department have been or are being violated
22 and make reports to the department concerning the
23 inspections;

24 (2) request an injunction from the district court to
25 enjoin actions in violation of this chapter or rules adopted

1 by the department;

2 (3) bring actions to abate nuisances maintained in
3 violation of this chapter in the manner provided by law for
4 the summary abatement of other public nuisances;

5 (4) enforce---rules---adopted---by---the---department file
6 complaints with the district court for assessment of the
7 penalties provided for in [section 15] or for recovery of
8 costs provided for in [section 16], or both."

9 **NEW SECTION. Section 4. License required -- exemption**
10 **-- validation.** (1) Except as provided in subsection (3), a
11 person may not operate a public swimming pool or public
12 bathing place without annually obtaining a license from the
13 department.

14 (2) A separate license is required for each public
15 swimming pool or public bathing place unless more than one
16 public swimming pool is operated on the same premises by the
17 same person, in which case a single license is required for
18 all public swimming pools on the premises.

19 (3) The state or a political subdivision of the state
20 owning or operating a public swimming pool or public bathing
21 place is not required to obtain a license under subsection
22 (1) but must comply with the health and safety requirements
23 in 50-53-101 through 50-53-109 and [sections 4 through 17]
24 and the rules of the department.

25 (4) A license issued by the department is not valid

1 unless signed in accordance with [section 7] or in
2 accordance with [section 8], in the case of an appeal.

3 **NEW SECTION. Section 5. Application for and right to**
4 **license.** (1) An application for both an original and renewal
5 license to operate a public swimming pool or public bathing
6 place must be made to the department, must contain the
7 information required by the department, and must be
8 accompanied by the fee provided for in [section 6].

9 (2) A license must be issued to an applicant who has
10 satisfied the requirements for a license provided in
11 50-53-101 through 50-53-109, [sections 4 through 17], and
12 department rules.

13 (3) Upon issuing a license, the department shall
14 forward the license to the appropriate local health officer
15 for validation as provided in [section 7].

16 **NEW SECTION. Section 6. License fee and late fee --**
17 **disposition.** (1) (a) Except as provided in subsection
18 (1)(b), each application for an original or renewal license
19 must be accompanied by a license fee of \$75.

20 (b) The fee for an original or renewal license for a
21 public swimming pool or public bathing place operated in
22 conjunction with a public accommodation is \$50.

23 (2) An operator of a public swimming pool or public
24 bathing place who fails to renew a license by the expiration
25 date provided in [section 9] and who operates the public

1 swimming pool or public bathing place in the license year
2 for which no renewal fee was paid shall, upon renewal, pay
3 to the department a late renewal fee of \$25 in addition to
4 the renewal fee required by subsection (1). Payment of the
5 late renewal fee does not relieve the operator of
6 responsibility for any operation without a license.

7 (3) The department shall deposit 85% of the fees
8 collected under subsection (1) in the state special revenue
9 fund to the credit of the local board inspection fund
10 account created by 50-2-108. Money deposited in the local
11 board inspection fund account is subject to appropriation by
12 the legislature for the purposes of [section 17].

13 (4) The department shall deposit 15% of the fees
14 collected under subsection (1) and all the fees collected
15 under subsection (2) in an account in the state special
16 revenue fund to be appropriated by the legislature to the
17 department for the enforcement of 50-53-101 through
18 50-53-109 and [sections 4 through 17].

19 NEW SECTION. **Section 7. validation of license required**
20 -- **validation by local officer.** (1) A license issued by the
21 department under 50-53-101 through 50-53-109 and [sections 4
22 through 17] is not valid until it is signed by the local
23 health officer of the jurisdiction in which the public
24 swimming pool or public bathing place is located.

25 (2) The local health officer shall, within 15 days of

1 receipt of the license, validate or refuse to validate the
2 license. Failure of the officer to validate a license is a
3 refusal for the purposes of [section 8].

4 NEW SECTION. **Section 8. Refusal of health officer to**
5 **validate -- appeal to board.** (1) A local health officer may
6 refuse to validate a license issued by the department under
7 50-53-101 through 50-53-109 and [sections 4 through 17] only
8 if the officer determines that the license applicant has not
9 met the requirements for the issuance of a license under
10 50-53-101 through 50-53-109, [sections 4 through 17], and
11 the rules of the department. If the local health officer
12 refuses to validate a license, the officer shall notify the
13 license applicant and the department of the refusal within 5
14 days of his decision. The notice must state the grounds for
15 the refusal.

16 (2) The license applicant may appeal the decision of
17 the local health officer to the local board of health by
18 filing a written notice of appeal with the officer and the
19 board within 30 days of the officer's refusal or within 30
20 days of the expiration of the period for the officer's
21 decision under [section 7], whichever is first.

22 (3) Upon filing the notice of appeal, the license
23 applicant is entitled to a hearing before the board to
24 determine the applicant's eligibility for a license under
25 50-53-101 through 50-53-109, [sections 4 through 17], and

the rules of the department. The hearing must be held pursuant to the contested case procedure of the Montana Administrative Procedure Act. If the board finds that the applicant is entitled to a validated license, the chairman of the board shall validate the license by signing the license.

NEW SECTION. Section 9. License expiration -- nontransferability. (1) A license issued under 50-53-101 through 50-53-109 and [sections 4 through 17] expires on December 31 of the year of issuance unless it is suspended or canceled by the department before that date.

(2) A license issued under 50-53-101 through 50-53-109 and [sections 4 through 17] is not transferable.

NEW SECTION. Section 10. Cooperative agreements -- inspections. (1) The department may enter into cooperative agreements with local boards of health to authorize those boards to act as agents of the department and to conduct inspections of and enforce applicable statutes and department rules relating to public swimming pools and public bathing places within the jurisdictions of the respective boards.

(2) The department or a local board of health, pursuant to a cooperative agreement, shall annually conduct:

(a) at least one full facility inspection and one critical point inspection of each public swimming pool or

public bathing place operated throughout the year; and

(b) at least one full facility inspection of each seasonal public swimming pool or public bathing place.

NEW SECTION. Section 11. Denial, suspension, or cancellation of license -- multiple pool facility. (1) The department may deny, suspend, or cancel a license if it finds that the license applicant or licensee has violated 50-53-101 through 50-53-109, [sections 4 through 17], or the rules of the department and has failed or refused to remedy or correct the violation in accordance with the procedure provided in [section 13].

(2) If the license of an operator who operates more than one public swimming pool under one license is denied, suspended, or canceled, the use of all of the public swimming pools on the premises must cease unless the department determines that the violation for which the license was denied, suspended, or canceled does not affect the operation or the use of all of the public swimming pools on the premises.

NEW SECTION. Section 12. Administrative enforcement -- notice -- department hearing. (1) A license may not be denied, suspended, or canceled or corrective action may not be ordered by the department unless the department delivers to the license applicant or licensee a written notice of violation that contains a written statement of the facts

1 constituting the violation and a citation to the statute or
2 rule of the department alleged to have been violated. No
3 further administrative enforcement action may be taken by
4 the department pursuant to the notice if within 10 days
5 after receipt of the notice, the license applicant or
6 licensee complies with the provisions of [section 13].

7 (2) The department may combine with any notice issued
8 under subsection (1) an order for the suspension or
9 cancellation of a license or for corrective action as the
10 department finds necessary to remedy the violation evidenced
11 in the notice. The order becomes final 10 days after service
12 unless within that time the license applicant or licensee
13 requests a hearing pursuant to subsection (4) or submits a
14 corrective action plan in accordance with [section 13].

15 (3) The department may combine with any notice or order
16 issued under subsection (1) or (2) an order for the license
17 applicant or licensee to appear before the department within
18 a time specified by the department and show cause why the
19 department should not deny, suspend, or cancel the license
20 or otherwise order compliance with 50-53-101 through
21 50-53-109, [sections 4 through 17], and the rules of the
22 department.

23 (4) A hearing requested by a license applicant or
24 licensee must be made in writing to the department and must
25 specify the mistake in the facts or law relied on by the

1 department. A hearing held pursuant to this section must be
2 held in accordance with the contested case procedure of the
3 Montana Administrative Procedure Act. Following a hearing,
4 the department may issue an appropriate order. Service of
5 notice or an order mailed by the department is complete upon
6 mailing.

7 NEW SECTION. **Section 13. Compliance with corrective**
8 **action plan as bar to further administrative enforcement.**
9 The department may not deny, suspend, or cancel the license
10 or require corrective action of an operator of a public
11 swimming pool or public bathing place who received a notice
12 of violation from the department pursuant to [section 12]
13 if:

14 (1) the operator submits a plan to correct the
15 violation to the department within 10 days of service of the
16 notice;

17 (2) the department approves the plan in writing,
18 including the time in which the plan must be complied with;
19 and

20 (3) the operator complies with the plan within the time
21 period prescribed by the department.

22 NEW SECTION. **Section 14. Return of license for**
23 **alteration or destruction.** Upon cancellation of a license or
24 the right to operate one or more public swimming pools under
25 a single license for the premises, the operator of the

public swimming pool shall return the license to the department for destruction of the license or deletion of the listing of the public swimming pool affected by the cancellation. Cancellation by the department of a license to operate a public swimming pool is effective notwithstanding the refusal or failure of an operator to return the license to the department.

NEW SECTION. Section 15. Civil penalties -- other enforcement not barred. (1) A person who violates a provision of 50-53-101 through 50-53-109 and [sections 4 through 17], the rules of the department implementing those sections, an order of the department, or any condition of a license issued by the department is subject to a civil penalty not to exceed \$500 for each violation. Each day of violation constitutes a separate violation.

(2) An action for collection of a civil penalty under this section does not bar administrative enforcement under [section 12], an action for injunctive relief under 50-53-104, or enforcement under 50-53-109.

NEW SECTION. Section 16. Recovery of costs by department or local jurisdiction. In a civil or criminal action brought by the department or a local jurisdiction to enforce the requirements of 50-53-101 through 50-53-109 and [sections 4 through 17], the rules of the department, or any condition of a license or to assess civil penalties and in

an action brought by the department to enforce an order of the department, the court may assess the operator of the public swimming pool or public bathing facility for the costs of any investigation and the costs of the civil or criminal action, including reasonable attorney fees.

NEW SECTION. Section 17. Department to pay board for inspections or enforcement, or both. (1) By June 30 of each year, the department shall pay to a local board of health established under 50-2-104, 50-2-106, or 50-2-107 an amount from the local board inspection fund account, created by 50-2-108, for the purpose of inspecting public swimming pools and public bathing places licensed under 50-53-101 through 50-53-109 and [sections 4 through 17] or for taking appropriate enforcement action with respect to the public swimming pools and public bathing places, or for both inspection and enforcement. The payment required by this section must be made to a board only if the board and any local health officer and sanitarian for the jurisdiction of the board meet the program performance standards established by department rules.

(2) Money received by the board pursuant to subsection (1) may be used only for the purpose of inspections and enforcement under 50-53-101 through 50-53-109 and [sections 4 through 17] and must be used to supplement and not supplant other money received by the board for the same

1 purpose.

2 (3) The department may use money in the local board
3 inspection fund account appropriated to the department for
4 the enforcement of 50-53-101 through 50-53-109, [sections 4
5 through 17], and the rules of the department and for
6 inspections to determine compliance with those sections and
7 rules in any local jurisdiction not receiving payment under
8 subsection (1).

9 NEW SECTION. **Section 18.** Codification instruction.
10 [Sections 4 through 17] are intended to be codified as an
11 integral part of Title 50, chapter 53, and the provisions of
12 Title 50, chapter 53, apply to [sections 4 through 17].

13 NEW SECTION. **Section 19.** Effective dates. (1)
14 [Sections 2, 6, and this section] are effective on passage
15 and approval.

16 (2) [Sections 1, 3 through 5, and 7 through 18] are
17 effective January 1, 1992.

-End-

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0994, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill requiring the licensing of public swimming pools and bathing places; establishing license fees; providing for administrative and judicial enforcement; and providing for recovery of enforcement costs and civil penalties.

ASSUMPTIONS:

1. There are approximately 1200 public swimming pools/spas in Montana of which approximately 50% (600) are operated in conjunction with public accommodations.
2. A base annual license fee of \$75/establishment for public swimming pools/spas would be established with the exception that pools operated in conjunction with public accommodations would be \$50/establishment.
3. 85% (\$63.75 or \$42.50) of the public swimming pool/spa license fees would be deposited into the state special revenue account (local board inspection fund) as grants to local health departments for inspection and enforcement of the statute and administrative rules and 15% (\$11.25 or \$7.50) would be deposited in the state special revenue account earmarked for the department.
4. 5% of annual public swimming pool/spa license renewals would be delinquent with a late fee penalty of \$25 assessed which would be deposited in the state special revenue account earmarked for the department for the enforcement of the statute and administrative rules.
5. The special revenue account earmarked to the department would be used as the funding source for necessary program development resulting from the proposed legislation.

FISCAL IMPACT:

see next page

 3-19-91
ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 3-21-91
STELLA JEAN HANSEN, PRIMARY SPONSOR DATE
Fiscal Note for HB0994, as introduced. **HB 994-1**

FISCAL IMPACT:

Department of Health and Environmental Sciences:

	<u>FY92</u>			<u>FY93</u>		
<u>Expenditures:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Operating Expenses	0	11,225	11,225	0	10,000	10,000
Grants	<u>0</u>	<u>63,750</u>	<u>63,750</u>	<u>0</u>	<u>63,750</u>	<u>63,750</u>
Total	0	74,975	74,975	0	73,750	73,750
<u>Funding:</u>						
Inspection Fund (02)	0	74,975	74,975	0	73,750	73,750
<u>Revenues:</u>						
Local Brd. Insp. Fund (02)	0	63,750	63,750	0	63,750	63,750
License Renewals (02)	0	11,250	11,250	0	11,250	11,250
Late Fee Penalty (02)	<u>0</u>	<u>1,500</u>	<u>1,500</u>	<u>0</u>	<u>1,500</u>	<u>1,500</u>
Total	0	76,500	76,500	0	76,500	76,500

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Some local health departments currently operate inspection programs. An estimated \$63,750 would be deposited into the state special revenue account (local board inspection fund) to support local public pool/spa inspection and enforcement programs. Performance standards would be established to provide uniform program performance. Reimbursement from the local board inspection fund to local environmental health programs representing all 56 counties would be made in proportion to the number of establishments licensed per jurisdiction.

REPORT LCB4

MONTANA LEGISLATIVE COUNCIL BILL STATUS SYSTEM
FINAL COMMITTEE REPORT OF REFERRED BILLS
COMMITTEE--(H) HUMAN SERVICES

PAGE NBR..... 71
RUN TIME13:25
RUN DATE.... 06/04/91

CHAIRMAN--ANGELA RUSSELL
NORMAL SCHEDULE==> SITE: ROOM 312-2

DAYS: TU,TH

TIME: 3:00 P.M.

SECRETARY--JEANNE FLYNN KRUMM

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0979	3/06	3/16		TABLED ON 03/21		
BARNHART, BEVERLY			A STUDY OF THE AVAILABILITY OF HEALTH CARE PROFESSIONALS IN MONTANA			
HB0980	3/06	3/16		DO PASS	APPROPRIATIONS	3/23
RUSSELL, ANGELA			DESIGNATION OF STATE EPIDEMIOLOGIST			
HB0981	3/06	3/16		PASS AS AMENDED	APPROPRIATIONS	3/23
RUSSELL, ANGELA			APPROPRIATE FOR PROGRAM FOR EMOTIONALLY DISTURBED CHILDREN AND ADOLESCENTS			
HB0994	3/15	3/22		PASS AS AMENDED		3/23
HANSEN, STELLA			SWIMMING POOL LICENSURE			
HJ0003	1/03	1/09		DO PASS		1/10
BROWN, JAN			JOINT RESOLUTION TO PROMOTE BREAST-FEEDING IN MONTANA			
HJ0016	1/31	2/13		DO PASS		2/14
GERVAIS, FLOYD			RESOLUTION SUPPORTING HEALTH CARE FOR NATIVE AMERICAN VETERANS			
HJ0021	2/06	2/15		PASS AS AMENDED		2/16
WHALEN, TIM			URGE HOME AND COMMUNITY HEALTH CARE UNDER MEDICAID PROGRAMS			
HJ0040	2/19	2/22		DO PASS		2/23
RICE, SHEILA			URGE CONGRESS TO ADEQUATELY FUND MEDICARE			
HJ0054	4/17	4/18		PASS AS AMENDED		4/18
BROOKE, VIVIAN			REQUEST ESTABLISHMENT OF AN INTERIM STUDY COMMITTEE ON CHILDREN AND FAMILIES			

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By Rep. Angela Russell, Chair, on March 22, 1991,
at 1:45 p.m.

ROLL CALL

Members Present:

Angela Russell, Chair (D)
Tim Whalen, Vice-Chairman (D)
Arlene Becker (D)
William Boharski (R)
Jan Brown (D)
Brent Cromley (D)
Tim Dowell (D)
Stella Jean Hansen (D)
Royal Johnson (R)
Betty Lou Kasten (R)
Thomas Lee (R)
Charlotte Messmore (R)
Jim Rice (R)
Sheila Rice (D)
Wilbur Spring (R)
Carolyn Squires (D)
Jessica Stickney (D)
Bill Strizich (D)
Rolph Tunby (R)

Members Excused: Patrick Galvin

Staff Present: David Niss, Legislative Council
Jeanne Krumm, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

EXECUTIVE ACTION ON SB 174

Motion: REP. MESSMORE MOVED SB 174 BE CONCURRED IN.

Motion: REP. MESSMORE moved to amend SB 174. EXHIBIT 1

Discussion:

David Niss stated that these amendments require the Governor, for the purposes of implementing provisions in current law, that all of the members of the Board of Psychologists serve staggered five year terms, which has never been implemented. The Board of Psychologists have a problem in that several of their appointees terms expire at the same time. Given their administrative

do. The board is volunteer without any staff, they do receive some secretarial assistance from the Department of Family Services. If the chairman of the board is not in Helena, that secretarial assistance is not that available to them.

Proponents' Testimony:

Mike Males, Children's Trust Fund, submitted written testimony.
EXHIBIT 20

Opponents' Testimony: None

Questions From Committee Members:

REP. JOHNSON asked how many people are on the board. Mr. Males stated that the board is an independent volunteer board. There are seven members appointed from districts around the state. The board meets in Helena four times a year.

Closing by Sponsor:

SEN. ECK stated that the Department of Family Services is charged with keeping and providing care and protection to children who are abused and neglected. The Children's Trust Fund has the charge of prevention. The Department of Family Services spends approximately \$20 million a year on child abuse and neglect and provide the services they have for those children.

EXECUTIVE ACTION ON SB 284

Motion/Vote: REP. LEE MOVED SB 284 BE CONCURRED IN. Motion carried 18-2 with REPS. JOHNSON and KASTEN voting no.

HEARING ON HB 994

Presentation and Opening Statement by Sponsor:

REP. STELLA JEAN HANSEN, House District 57, Missoula, stated that this bill is licensure for public swimming pools. Municipal swimming pools are already regulated, but cannot be licensed because we cannot charge them a fee for licensure. This bill sets up a local board, which sets a fee, sets regulations, standards, and number of inspections for the swimming pool. There is a section which sets up the penalties.

Proponents' Testimony:

Mitzi A. Schwab, Food and Consumer Safety Bureau, submitted written testimony. EXHIBIT 21

Cal Campbell, Public Health Sanitarian Consultant, Department of Health and Environmental Sciences, submitted written testimony.
EXHIBIT 22

HOUSE HUMAN SERVICES & AGING COMMITTEE

March 22, 1991

Page 12 of 13

Melissa Tuemmeler, registered sanitarian, Cascade County, submitted written testimony. EXHIBIT 23

Joe Russell, Flathead City County Health Department, stated that this bill will benefit their health department. This bill will provide civil penalties to the rules; provide authorization for injunctions to enjoin violations of the law; establish minimum performance standards for the inspection program; and establish licensing fees to offset the cost of administering the program at the state and local level. This program provides basic public health service that must be available to all people who reside in our county.

Opponents' Testimony:

Stuart Doggett, Montana Innkeepers, submitted amendments. EXHIBIT 24

Questions From Committee Members:

REP. MESSMORE asked for a definition of a public pool. Mr. Campbell stated that it would include anything that is open to the public, not backyard pools or anything like that.

REP. S. RICE asked if school pools are considered public. Ms. Schwab stated that all governmental agency operated pools are subject to the regulations of the Code, but they would not be charged license fee.

REP. DOWELL asked how many pools are there in Flathead County. Mr. Russell stated that they have 92 businesses that they look at right now, which include 32 pools and 60 spas. There are 73 pools and spas associated with both accommodations.

Closing by Sponsor: REP. HANSEN closed on the bill.

EXECUTIVE ACTION ON HB 994

Motion: REP. CROMLEY MOVED HB 994 DO PASS.

Motion/Vote: REP. CROMLEY moved to amend HB 994. Motion carried unanimously.

Page 13, lines 14 and 15.

Strike: "Each day of violation constitutes a separate violation."

Motion: REP. J. RICE moved to amend HB 994. EXHIBIT 25

Page 14, line 2.

Following: "may"

Insert: ", in the case of an intentional violation of 50-53-101 through 50-53-109 and [sections 4 through 17],"

HOUSE HUMAN SERVICES & AGING COMMITTEE

March 22, 1991

Page 13 of 13

Discussion:

REP. CROMLEY stated that he will vote against the amendment.

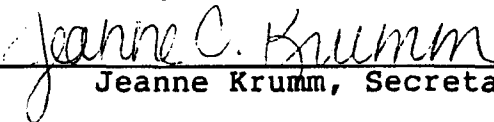
Vote: Motion carried 16-4 with REPS. BECKER, CROMLEY, HANSEN and S. RICE voting no.

Motion/Vote: REP. WHALEN MOVED HB 994 DO PASS AS AMENDED.
Motion carried 17-3 with REPS. KASTEN, LEE and SPRING voting no.

ADJOURNMENT

Adjournment: 8:10 p.m.


ANGELA RUSSELL, Chair


Jeanne Krumm, Secretary

AR/jck

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

EXHIBIT 21

DATE 3-22-91

HB 994



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

TESTIMONY ON HOUSE BILL NO. 994 - DHES
PUBLIC SWIMMING POOL AND PUBLIC BATHING AREA LICENSURE

50-53, MCA gives joint authority to state and local health authorities who participate on a voluntary basis. Voluntary inspection programs are practiced in 46% or 26 counties with 20 counties which either inspect public pools on a complaint basis only or do not inspect pools at all, 4 of which serve 26.4% of Montana's population (1990 census). Current FCSB resources are 1 - .25 FTE to providing direct service and local program support. There may be as many as 1200 public swimming pools and public bathing areas (PSP/PBA) statewide of which ~600 are associated with public accommodations. There are no accurate listings for these facilities. PSP/PBA are major attractions for tourists and Montana citizens. Tourists want high quality facilities and without a uniform minimum inspection program there is no assurance this is provided.

Public health risks occur from either the design and construction (DC) of the facility or the operation and sanitary condition of the facility (especially water quality [WQ]). DC & WQ deficiencies result in injuries and death. 19 Public Pool deaths and at least 4 serious Public Pool injuries have been reported which have resulted in at least 2 lawsuits with a combined settlement of \$2,000,000 have been documented from 1978 - 1990. There are at least 2 unresolved death and injury investigations which may result in lawsuits.

Minimum program requirements would be set by statute. Facility licensure fees would be based upon estimated costs to provide a minimum inspection program to establishments. A base fee of \$75/facility with 85% (\$63.75) deposited in the local board inspection fund to support local inspection programs and 15% (\$11.25) deposited in a state special revenue account to be allocated to DHES for needed program development and support of local inspection programs. Facilities also licensed as Public Accommodations would be assessed a fee of \$50/facility with 85% (\$42.50) for local programs and 15% (\$7.50) for DHES program development and support. A late license renewal fee penalty of \$25/facility would be assessed.

HB994 provides a licensure program similar to 50-50, 50-51 and 50-52, MCA with amendment and new sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14. Sections 15 and 16 include provision for civil penalties and the means for cost and expense recovery for either state or local programs. Section 17 provides accountability for fee monies paid to local governments through the local board inspection fund.

The licensure program would become effective with calendar year 1992 with late license fee assessment leniently applied. There is no current intent to alter construction/operation rules which would require further PSP/PBP "grandfathering". Definition of PSP/PBP facilities has been covered by Opinion No. 18 of Vol. 39 from the Montana Attorney General's Office.

DHES requests a "do pass" as introduced committee report. Thank you.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Mitzi A. Schwab".

Mitzi A. Schwab
Food and Consumer Safety Bureau
Telephone: 444-2408

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

EXHIBIT 22
DATE 3-22-91
HB 994



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

Testimony on HB 994

Chairperson Russell and members of the committee, I'm Cal Campbell, R.S., Public Health Sanitarian Consultant at the Department of Health and Environmental Sciences for over 20 years. I've been here long enough to compare the development of local inspection programs to raising my own family.

In the '70's there were many new local sanitarians and I had young kids. In the '80's they were like teenagers, knowing everything and doing their own thing and I had teenagers. It is very gratifying to see the local programs develop. They're willing now to listen, accept uniformity of efforts, provide education and service to industry and to only use enforcement as a very, very last resort to protect public health. My kids now say, "You were right, Dad." This bill will do what is needed to assist local governments to help themselves in providing better government at the local level. I'm providing examples of statewide local support for this bill from the attached sources.

Cal Campbell
Cal Campbell, R.S.

444-2408

CC/vdt-14xt

DISTRICT SANITARIAN
RICHLAND AND McCONE COUNTY HEALTH DEPARTMENTS

221 5th St. S.W. Sidney, MT 59270 Phone: 406 482-2207

MEMORANDUM

TO: Betty Lou Kasten
FROM: Kelly Logan, R.S. 
DATE: March 22, 1991
SUBJECT: House bill 994

Please support house bill 994 which requires licensing of public swimming pools. This bill will be heard in the House Human Services Committee on March 22 at 3:00 p.m. An aggressive inspection program will improve safety and sanitation found in our public pools. Items that need to be checked in our pools are water quality (pH, free chlorine, clarity), recirculation and filtering equipment, disinfection equipment, safety equipment, the pool environment, and the operator records. There is a definite hazard to the public no disinfection is present or when the main drain is not visible.

We have been fortunate that the operators of the pool in Circle are knowledgeable in the operation and maintenance of their pool. They have been doing an excellent job. This bill would exempt from licensing public pools that are political subdivision of the state but would require the pools to comply with health and safety requirements.

I encourage your support of this bill.

BIG HORN COUNTY

HARDIN, MONTANA 59034



EXHIBIT 22
DATE 3-22-91
HB 994

TO: Representative Angela Russel

I support HB 994 -- Public Swimming Pool Licensure.

Licensing Public Pools will strengthen our ability to protect the public from unsafe and unhealthy conditions via a thorough, routine inspection process.

Sincerely,

Craig P. Taft, R.S.
Health Department
Environmental Section
Hardin, MT 59034

For 3-21-91



EXHIBIT

DATE

HB

22

3-22-91

994

MEMORANDUM

To: House Human Services Committee Member
From: Doug Kikkert, R.S.
Date: March 21, 1991
Subject: H.B. 994 Public Swimming Pool Fees

I am Doug Kikkert, Environmental Health Specialist with the Missoula City-County Health Department. I am offering testimony to support a fee schedule to be used for public swimming pool inspection and enforcement.

A \$75 fee for pools not associated with a public establishment and a \$50 fee for those associated with a licensed public accomodation will enable the state to better monitor compliance with existing pool regulations. Because of lack of funding those regulations are unenforced at the local and State levels.

Liability for a recent diving accident related to a swimming pool in the state. Conditions of the pool were not verified because of lack of funding. The claimant is now pursuing civil action for damages and the State Health Department or local health department is not able to certify safe conditions in that particular pool. Other conditions in pools and spas of health clubs and public accommodations are not known because of lack of staffing. This is the real reason why our department is not better able to serve the public in providing safe and healthy environments in public pools and spas.

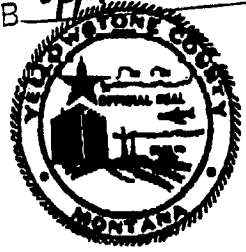
It is in the best interests of Public Health to further our efforts in swimming pool design and operation and I feel the proposal presented in H.B.994 will enhance greatly our efforts in monitoring dangerous and unhealthy conditions in public facilities that offer a bathing /swimming option to the public. This becomes particularly important in preserving the confidence of the tourist industry. Otherwise they may be discouraged from traveling to this the "Last Best Place".



County of Yellowstone

CITY-COUNTY HEALTH DEPARTMENT

DATE 3-22-91
HB 994



POST OFFICE BOX 35033
BILLINGS, MONTANA
59107

March 21, 1991

Dear Representative Arlene Becker,

The Yellowstone City-County Health Department supports House Bill 994. It is strongly recommended that this bill be approved by the House Human Services Committee as submitted.

Sincerely
Ted Kylander, R.S.
E.H. Program Manager



EXHIBIT

22

DATE

3-22-91

HB

994

Montana Environmental Health Association

March 21, 1991

Angela Russell, Chairman
Human Services and Aging
Capitol, Room 312-B
Helena, MT 59620

Dear Chairman,

The Montana Environmental Health Association endorses House Bill 994 concerning the licensure of swimming pools. This bill will clarify existing rules and will enhance the inspection process by sanitarians at the county level. The association strives for pools that are operated in healthful and safe manner, uniformity in inspections, education of pool operators and with the passage of house bill 994 this task will become more manageable.

The Montana Environmental Health Association urges the committee to give a due pass recommendation for house bill 944.

Sincerely,

Tim Read

Tim Read, President
Montana Environmental Health Association



EXHIBIT 22
DATE 3-22-91
HB 994

Flathead City-County Health Department

723 5th Ave. East • Kalispell, Montana 59901

Environmental Health Services 756-5632 • Community Health Services 756-5633

DATE: March 21, 1991

TO: Thomas Lee
Human Services and Aging Committee

FROM: Flathead City-County Board of Health

The Flathead City-County Board of Health supports the revisions to the Swimming Pool and Spa regulations proposed as House Bill 994. The proposed legislation will benefit our health department in the following manner:

- 1) Civil penalties will be added to the laws along with authorization for injunctions to enjoin violations of the laws.
- 2) Establish minimum performance standards for the inspection program as it pertains to standardized inspection protocols.
- 3) Establish license fees to offset the cost of administering the program at the state and local level.

We believe that this program provides a basic public health service that must be available to all people who reside in this county as well as to the people who visit our community. We further believe that the costs of providing our services must not be shouldered entirely by the taxpayer, but should be borne by the businesses providing the pool and spa facility.

We urge your support of the legislation introduced as House Bill 994.

Respectfully submitted,

Jane Lopp, Chairperson
Flathead City-County Board of Health

DATE

3-22-91

994

State of Montana

County of Gallatin

Bozeman



March 22, 1991

The Honorable Representative Wilbur Springs

Dear Representative Springs,

House Bill 994, dealing with the licensing of swimming pools and spas, will come before the House Natural Resources Committee. This office urges your support of this bill.

Many diseases can be spread in improperly treated swimming pools. Licensing these pools along with scheduled inspections will minimize the chance of contracting infections.

Again, this office feels this bill is needed and would appreciate your support.

Thank you,

Justin Buchanan

Justin Buchanan R.S.
Gallatin County Sanitarian

EXHIBIT 23
DATE 3-22-91
HB 994

DATE: MARCH 22, 1991

TO: HOUSE HUMAN SERVICES COMMITTEE

FROM: MELISSA L. TUEMMLER, R.S., GREAT FALLS

DEAR COMMITTEE MEMBERS:

MY NAME IS MELISSA TUEMMLER, I AM A REGISTERED SANITARIAN EMPLOYED BY CASCADE COUNTY AT THE CITY-COUNTY HEALTH DEPARTMENT. I ASK THAT YOU SUPPORT HB 994, THE BILL REQUIRING LICENSURE OF PUBLIC SWIMMING POOLS.

AS A COUNTY SANITARIAN, I AM REQUIRED TO INSPECT PUBLIC SWIMMING POOLS AND SPAS. THE INSPECTIONS AND INVESTIGATION OF COMPLAINTS PERTAINING TO POOLS AND SPAS DEMAND A LOT OF MY TIME, AS WELL AS THE TIME OF MY CO-WORKERS. POOLS AND SPAS REPRESENT A SIGNIFICANT PUBLIC HEALTH RISK DUE TO DISEASE TRANSMISSION AND SAFETY CONCERNS. THE LICENSE REQUIREMENT OF THESE FACILITIES WOULD ALLOW LOCAL HEALTH AUTHORITIES TO ADEQUATELY ENFORCE REGULATION OF POOLS AND SPAS. THIS BILL ALSO ESTABLISHES FEES TO SUPPORT THE LOCAL INSPECTION PROGRAM.

PLEASE VOTE IN FAVOR OF HB 994.

THANK YOU.

Amend HB 994, first reading bill:

1. Page 6, line 19
Following : "of"
Strike: "\$75"
Insert: "\$40"
2. Page 6, line 22
Following: "is"
Strike: "\$50"
Insert: "\$40"
3. Page 7, line 13
Following: "deposit"
Strike: "15%"
Insert: "6% of the fees into the general fund, and 9%"
4. Page 13, line 14
Following: "violation."
Strike: remainder of line 14 and all of line 15
5. Page 14, line 2
Following: "may"
Insert: ", in a case of wilfull disregard or contumacy,"

EXHIBIT 25
3-22-91
994

Amendments to House Bill No. 994
First Reading Copy

For the Committee on Human Services and Aging

Prepared by David S. Niss
March 22, 1991

1. Page 13, lines 14 and 15.

Strike: "Each day of violation constitutes a separate violation."

2. Page 14, line 2.

Following: "may"

Insert: ", in the case of an intentional violation of 50-53-101
through 50-53-109 and [sections 4 through 17],"

HOUSE OF REPRESENTATIVES

HUMAN SERVICES AND AGING COMMITTEE

ROLL CALL

DATE 3-22-91

NAME	PRESENT	ABSENT	EXCUSED
REP. ANGELA RUSSELL, CHAIR	✓		
REP. TIM WHALEN, VICE-CHAIR	✓		
REP. ARLENE BECKER	✓		
REP. WILLIAM BOHARSKI	✓		
REP. JAN BROWN	✓		
REP. BRENT CROMLEY	✓		
REP. TIM DOWELL	✓		
REP. PATRICK GALVIN			✓
REP. STELLA JEAN HANSEN	✓		
REP. ROYAL JOHNSON	✓		
REP. BETTY LOU KASTEN	✓		
REP. THOMAS LEE	✓		
REP. CHARLOTTE MESSMORE	✓		
REP. JIM RICE	✓		
REP. SHEILA RICE	✓		
REP. WILBUR SPRING	✓		
REP. CAROLYN SQUIRES	✓		
REP. JESSICA STICKNEY	✓		
REP. BILL STRIZICH	✓		
REP. ROLPH TUNBY	✓		

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Human Services & Aging COMMITTEE BILL NO. HB 994
 DATE 3-22-91 SPONSOR(S) Rep. S.J. Hansen

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Mitzi Schwab	DHES	994		X
Joe Russell	FLATHEAD L-L HEALTH DEPT	994		X
Cal Campbell	Health & Env Sci	994		X
Stuart Daggett	MT Truckers	994	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

10:55
3-23-91
JDR

HOUSE STANDING COMMITTEE REPORT

March 23, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that House Bill 994 (first reading copy -- white) do pass as amended.

Signed: Angela Russell
Angela Russell, Chairman

And, that such amendments read:

1. Page 13, lines 14 and 15.

Strike: "Each day of violation constitutes a separate violation."

2. Page 14, line 2.

Following: "may"

Insert: ", in the case of an intentional violation of 50-53-101 through 50-53-109 and [sections 4 through 17],"

CHAIRMAN--DOROTHY ECK
NORMAL SCHEDULE==> SITE: ROOM 410

DAYS: M,W,F

TIME: 3:00 P.M.

SECRETARY-CHRISTINE MANGIANTINI

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0953	3/20	4/01		CONCUR		4/02
RICE, SHEILA			APPROPRIATE FUNDS FOR ANNUAL INSPECTIONS OF COSMETOLOGICAL ESTABLISHMENTS			
HB0968	3/28	4/08		CONCUR		4/09
BROOKE, VIVIAN			AUTHORIZE DHES TO ADOPT AND ADMINISTER DO NOT RESUSCITATE IDENTIFICATION			
HB0977	3/28	4/08		CONCUR AS AMENDED		4/12
BRADLEY, DOROTHY			REVISE AND EXTEND INPATIENT RESIDENTIAL PSYCHIATRIC TREATMENT			
HB0978	3/28	4/08		CONCUR		4/09
PHILLIPS, JOHN			REQUIRE SRS TO SEEK A WAIVER TO PROVIDE SERVICES IN PERSONAL CARE FACILITIES			
HB0989	3/26	4/01		CONCUR AS AMENDED		4/03
CROMLEY, BRENT			GENERALLY REVISE THE LAWS REGULATING FOOD ESTABLISHMENTS			
HB0994	4/04	4/10		CONCUR AS AMENDED		4/11
HANSEN, STELLA			SWIMMING POOL LICENSURE			
HJ0003	1/17	1/23		CONCUR		1/28
BROWN, JAN			JOINT RESOLUTION TO PROMOTE BREAST-FEEDING IN MONTANA			
HJ0016	2/20	3/15		CONCUR		3/18
GERVAIS, FLOYD			RESOLUTION SUPPORTING HEALTH CARE FOR NATIVE AMERICAN VETERANS			
HJ0021	2/25	3/20		CONCUR		3/21
WHALEN, TIM			URGE HOME AND COMMUNITY HEALTH CARE UNDER MEDICAID PROGRAMS			
HJ0040	2/26	3/25		CONCUR AS AMENDED		3/27
RICE, SHEILA			URGE CONGRESS TO ADEQUATELY FUND MEDICARE			
HJ0054		4/22				
BROOKE, VIVIAN			REQUEST ESTABLISHMENT OF AN INTERIM STUDY COMMITTEE ON CHILDREN AND FAMILIES			

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By Chairman Dorothy Eck, on April 10, 1991, at 5:00 p.m.

ROLL CALL

Members Present:

Dorothy Eck, Chairman (D)
Eve Franklin, Vice Chairman (D)
James Burnett (R)
Thomas Hager (R)
Bob Pipinich (D)
David Rye (R)
Thomas Towe (D)

Members Excused:

Judy Jacobson (D)

Staff Present: Tom Gomez (Legislative Council)
Christine Mangiantini (Committee Secretary)

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HOUSE BILL 994

Presentation and Opening Statement by Sponsor:

Representative Stella Jean Hansen opened by saying this bill licenses swimming pools. Municipal pools are inspected but are not licensed. This bill pertains to public bathing places. There have been problems with pools in hotels and motels. Diving accidents and deaths have resulted in combined legal settlements of approximately \$2 million. Two unresolved deaths and injury investigations are still pending. There is a standard penalty clause in the bill and a provision for court proceedings. The licensing fee was changed by the House of Representatives committee from \$75.00 to \$40.00. She said there were some technical amendments that were not added in the House.

Proponents' Testimony:

The first witness was Mitzi Schwab, representing the Food and Consumer Safety Bureau of the Department of Health and Environmental Sciences (DHES).

SENATE PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

April 10, 1991

Page 2 of 13

Ms. Schwab passed the committee Exhibit #1 which denoted technical amendments to the bill, copies of letters of support and a technical sheet on hot tub contamination. She said at this point in time swimming pools are inspected only on a voluntary basis by the local county health departments. Twenty counties do not inspect swimming pools or only perform inspections based upon complaints. Four of these counties include 25 percent of the population of the state. She said they have a quarter time employee that administers the program.

The second witness was Joe Russell, environmental health coordinator for the Flathead City/County Health Department. He said they support the revisions to the swimming pool and spa regulations. It will benefit the health department by providing civil penalties and authorization for injunctions of violations and will establish standards. License fees will be available to assist in offsetting the cost of administering the program at the state and local level. He said the program provides a basic public health service that must be available to all people who reside in his county and the visitors to the community. The cost of providing the services should not be entirely shouldered by the taxpayer but should be shared by the businesses providing the pool and spa facilities.

Opponents' Testimony:

None.

Questions From Committee Members:

Senator Towe asked Ms. Schwab about the current safety regulations.

Ms. Schwab said there were safety regulations. In the statutes there is a provision to allow DHES to adopt rules but they have no mechanism to enforce those rules. She said they would like to have an annual license to the pool and spa providers. Those associated with public accommodations will be required to pay a \$50.00 fee and those not associated with public accommodations will be levied a \$75.00 fee. These are based on the costs of doing inspections. She said there is a grandfather provision that states any pool installed after June 25, 1985 has to meet standard construction and operation regulations. She said she did not know if everyone was meeting those standards.

Senator Towe asked about construction of a pool after that date.

Ms. Schwab said they would take a look at it. She said they need to be careful about this but run a greater risk of not knowing what is out there. If someone has a diving board and the pool is not constructed properly, a resolution of the problem would be the removal of the diving board.

Ms. Schwab continued by saying they would not be putting the pools out of business but making them safer.

PH041091.SM1

She said a number of businesses do not have chlorination systems for the pools. Under those circumstances serious infections can occur.

Chairman Eck asked Joe Russell if most local health departments have the capability of doing inspections and any follow-up activities that are deemed necessary.

Mr. Russell said he thinks they do. He said they have no revenue to accomplish the task now. Swimming pools are a major risk. As a health department they work toward health inspections. They also perform safety inspections. He said they believe in the program but are struggling to make ends meet. He said this bill would assist in that effort.

Senator Rye asked Ted Cylander from Yellowstone County Health Department, what difference the bill would make in that area.

Mr. Cylander said they cover both the city and the county and inspect all pools in that area. The fee and civil penalty clause would assist in their efforts. He said they operate a health department with three personnel. The fee structure may allow them to check the safety and condition of the pools more frequently. It would provide more protection for the public.

Senator Towe said the city swimming pools would not be required to obtain a license but would have to comply with the health and safety requirements. He asked if the civil penalty provisions cover the city pools.

Ms. Schwab said any pool that is not safe should be closed until the deficiencies are corrected.

Senator Towe asked for an explanation of the license fees.

Ms. Schwab said anyone that has a public accommodation license through DHES, like hotels, motels, bed and breakfast accommodations, boarding houses and retirement homes, pay a lower rate.

Closing by Sponsor:

Representative Hansen closed by saying there is a good case to license the pools. She said the State of Montana could be liable for some accidents and the state would be better to have some authority over the problems. She thanked the committee for a good hearing and asked for their consideration of the technical amendments.

EXECUTIVE ACTION ON HOUSE BILL 994

Motion:

Senator Towe moved adoption of the amendments denoted in Exhibit #1.

Discussion:

None.

Amendments, Discussion, and Votes:

There being no objections the motion carried.

Recommendation and Vote:

Senator Towe moved concurrence as amended. There being no objections the motion carried.

HEARING ON HOUSE BILL 693

Presentation and Opening Statement by Sponsor:

Representative Fred Thomas opened by saying there are 141,000 uninsured residents in Montana. This bill is part of the Governor's health care package. He passed the committee a copy of the "Health Care For Montanans" brochure which outlined Governor Stephens program (Exhibit #2). He said uninsured residents are a broad based group: low-income, self-employed and small business employees. There is an access problem to health care. Cost containment has gone through the roof and those that are uninsured have health problems that get worse and cost more. He said they studied cost shifting and worked with the Montana Hospital Association on data collection. He passed the committee Exhibit #3, a chart entitled, 'Health Insurance In Montana' and a statistical sheet entitled, 'Montana Hospital Data - 1989'. Cost shifting happens when a medical bill is not paid by someone who does not have insurance and the provider being the hospital or the doctor, must compensate for that bill in their rate base where it is charged off to someone else. The committee focused on trying to find the solution to getting people insured. The cost of health insurance was a problem and lowering the cost would help remove the barriers that cause uninsured. House Bill 693 tries to lower the cost of insurance available to the uninsured in Montana. It does exempt the uninsured from buying mandated health coverage. He said they surveyed programs in other states and tried to identify what would work in Montana. He said they worked with Blue Cross/Blue Shield on the cost of this program and passed the committee Exhibit #4. He reviewed the bill by saying section 1 included the definitions and section 2 denoted the exemptions and who is eligible to purchase the insurance.

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

STAN STEPHENS, GOVERNOR



STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

TESTIMONY ON HOUSE BILL NO. 994 - DHES
PUBLIC SWIMMING POOL AND PUBLIC BATHING AREA LICENSURE

50-53, MCA gives joint authority to state and local health authorities who participate on a voluntary basis. Voluntary inspection programs are practiced in 46% or 26 counties with 20 counties which either inspect public pools on a complaint basis only or do not inspect pools at all, 4 of which serve 26.4% of Montana's population (1990 census). Current FCSB resources are 1 - .25 FTE to providing direct service and local program support. There may be as many as 1200 public swimming pools and public bathing areas (PSP/PBA) statewide of which ~600 are associated with public accommodations. There are no accurate listings for these facilities. PSP/PBA are major attractions for tourists and Montana citizens. Tourists want high quality facilities and without a uniform minimum inspection program there is no assurance this is provided.

Public health risks occur from either the design and construction (DC) of the facility or the operation and sanitary condition of the facility (especially water quality [WQ]). DC & WQ deficiencies result in injuries and death. 19 Public Pool deaths and at least 4 serious Public Pool injuries have been reported which have resulted in at least 2 lawsuits with a combined settlement of \$2,000,000 have been documented from 1978 - 1990. There are at least 2 unresolved death and injury investigations which may result in lawsuits.

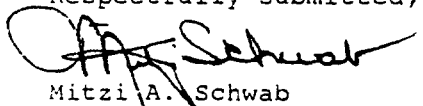
Minimum program requirements would be set by statute. Facility licensure fees would be based upon estimated costs to provide a minimum inspection program to establishments. A base fee of \$75/facility with 85% (\$63.75) deposited in the local board inspection fund to support local inspection programs and 15% (\$11.25) deposited in a state special revenue account to be allocated to DHES for needed program development and support of local inspection programs. Facilities also licensed as Public Accommodations would be assessed a fee of \$50/facility with 85% (\$42.50) for local programs and 15% (\$7.50) for DHES program development and support. A late license renewal fee penalty of \$25/facility would be assessed.

HB994 provides a licensure program similar to 50-50, 50-51 and 50-52, MCA with amendment and new sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14. Sections 15 and 16 include provision for civil penalties and the means for cost and expense recovery for either state or local programs. Section 17 provides accountability for fee monies paid to local governments through the local board inspection fund.

The licensure program would become effective with calendar year 1992 with late license fee assessment leniently applied. There is no current intent to alter construction/operation rules which would require further PSP/PBP "grandfathering". Definition of PSP/PBP facilities has been covered by Opinion No. 18 of Vol. 39 from the Montana Attorney General's Office.

DHES requests a "do pass" committee report. Thank you.

Respectfully submitted,


Mitzi A. Schwab
Food and Consumer Safety Bureau
Telephone: 444-2408

Proposed Amendments to House Bill 994
Second Reading Copy
Montana Department of Health and Environmental Sciences

April 8, 1991

1. Title, line 19.
Following: "SECTIONS"
Insert: "50-2-118,"

2. Page 15.
Following: line 11
Insert: "**Section 18.** Section 50-2-118, MCA, is amended to read:
"50-2-118. Powers and duties of local health officers.

(1) Local health officers or their authorized representatives shall:

(a) make inspections for sanitary conditions;

(b) as directed by the local board, issue written orders for the destruction and removal of filth which might cause disease;

(c) with written approval of the department, order buildings or facilities where people congregate closed during epidemics;

(d) on forms provided by the department, report communicable diseases to the department each week;

(e) before the first day of January, April, July, and October, give a report to the local board of sanitary conditions in the county, city, city-county, or district, together with a detailed account of his activities, on forms and containing information required by the department;

(f) before the 10th day after the report is given to the local board, send a copy of the report required by subsection (1)(e) of this section to the department;

(g) as prescribed by rules adopted by the department, establish and maintain quarantines;

(h) as prescribed by rules adopted by the department, supervise the disinfection of places at the expense of the local board when a period of quarantine ends;

(i) notify the department of his appointment and changes in membership of the local board;

(j) file a complaint with the appropriate court if this chapter or rules adopted by the local board or state department under this chapter are violated;

(k) validate state licenses issued by the department in accordance with chapters 50, 51, ~~and~~ 52, and 53 of this title.

(2) With approval of the department, local health officers may forbid persons to assemble in a place if the assembly endangers public health.

(3) A local health officer who is a physician may be placed in charge of a communicable disease hospital, but a local health officer who is a physician is not required to act as a physician to the indigent.

(4) A local health officer who is not a physician
shall not act as a physician to anyone."
Renumber: subsequent sections

3. Page 15, line 19.
Following: "7 through"
Strike: "18"
Insert: "19"

10 April, 1991

Dear Senator

On April 10, 1991 at 3:00 p.m. H.B. 994 will be heard in the Senate Public Health and Safety Committee. The Yellowstone City-County Health Department urges your support of H.B. 994.

Swimming pools are potential health and safety risks for the public. Without funds to promote continued inspections of public and semi-private facilities these swimming pools may not receive adequate attention by local health departments.

Sincerely,

Dee Kylander, R.S.
Program Manager
Yellowstone City-County Health Department



Flathead City-County Health Department

723 5th Ave. East • Kalispell, Montana 59901
Environmental Health Services 756-5632 • Community Health Services 756-5633

DATE: March 21, 1991

TO: Senator Dorothy Eck, Chairman
Senate Public Health, Welfare and Safety Committee

FROM: Flathead City-County Board of Health

The Flathead City-County Board of Health supports the revisions to the Swimming Pool and Spa regulations proposed as House Bill 994. The proposed legislation will benefit our health department in the following manner:

- 1) Civil penalties will be added to the laws along with authorization for injunctions to enjoin violations of the laws.
- 2) Establish minimum performance standards for the inspection program as it pertains to standardized inspection protocols.
- 3) Establish license fees to offset the cost of administering the program at the state and local level.

We believe that this program provides a basic public health service that must be available to all people who reside in this county as well as to the people who visit our community. We further believe that the costs of providing our services must not be shouldered entirely by the taxpayer, but should be borne by the businesses providing the pool and spa facility.

We urge your support of the legislation introduced as House Bill 994.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jane Lopp".

Jane Lopp, Chairperson
Flathead City-County Board of Health

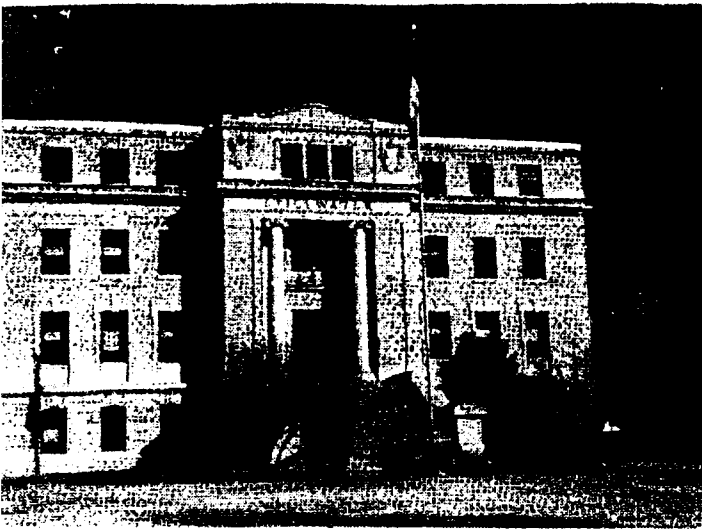


Exhibit # 1
4-10-91 HB 994

COUNTY OF STILLWATER STATE OF MONTANA

COLUMBUS, MONTANA

April 5, 1991

406-322-5237

Fax - 406-322-4698

Senator Jim Burnett
Capitol Station
Helena, MT 59620

Honorable Jim Burnett:

HB-994, licensing of swimming pools, is headed for the Senate Public Health Committee and I urge your support of this bill. The bill has passed the house already.

The licensing of swimming pools will not affect many places in Carbon and Stillwater County since most of them are owned by municipalities but those that are private and open to the public need to be overseen.

If you have any questions on the bill, Cal Campbell can be contacted at 444-2408.

Sincerely,

Rodney Fink
Rodney Fink R.S.
County Sanitarian

RF/vu

cc: Cal Campbell

LEGIONELLOSIS ASSOCIATED WITH HOT TUB?

On Thursday, March 7, 1991, the Preventive Health Services Bureau was notified of four cases of Pontiac fever among a group of tourists returning to Louisiana from a Montana ski resort. The four cases were characterized by a rapid onset of fever, headache, malaise, myalgia, and a non-productive cough. These symptoms developed in all of the subjects within a 24 hour period. All of the subjects reported using the same hot tub in one of the rental units at the resort during the previous week. Hot tub use was the only common exposure identified among the cases.

Health care providers in the areas were contacted in attempt to uncover additional cases. Also, the property manager of the site, upon request, provided a listing of all recent tenants of the units occupied by the affected parties. All attempts to find additional cases were unsuccessful.

Serologic tests on convalescent phase sera from the subjects showed antibody activity to Legionella pneumophila by EIA. Subsequent testing of these specimens at CDC using a fluorescent antibody technique revealed findings which were not inconsistent with the diagnosis of legionellosis or Pontiac fever.

The subjects reported that the "chlorine basket" of the hot tub was empty at the time of their use, and that they were suspicious that the tub might be not be adequately chlorinated. Water samples were not available to test for adequate levels of disinfectant, or for heavy contamination with Legionella. The hot tub purportedly had been properly maintained and serviced under contract with a whirlpool/spa maintenance firm. Other possible sources of drift aerosols, such as decorative fountains, evaporative condensers, cooling towers or other heat exchangers were not identified in the area.

Currently, there is not evidence of a continuing problem at the exposure site. If this cluster of cases was caused by Legionella from the suspect hot tub, it is felt to have been an isolated incident, possible due to a maintenance breakdown, which has since been corrected. Additional cases are not expected.

While hot tubs are generally not recognized as a common source of Legionella, cases of non-pneumonic legionellosis (Pontiac fever) have been reported in association with the use of whirlpool spas where disinfection was not adequate. Inadequate disinfectant levels in hot tubs and whirlpool spas are most often associated with rash illnesses, commonly Pseudomonas folliculitis.

Routine maintenance and inspection of whirlpool spas (in particular, commercial spa facilities) is important. The following points should be considered:

- Chlorine is a better disinfecting agent against legionellae than bromine. A continuous in-line chlorinator should be considered in lieu of a system utilizing bromine.
- Disinfection systems should be of the in-line type, and in continuous operation in order to allow the system to adequately disinfect.
- Disinfectant levels should be checked frequently and recorded.

ROLL CALL

PUBLIC HEALTH, WELFARE COMMITTEE
AND SAFETY

Date 04/10/91

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BURNETT	X		
SENATOR FRANKLIN	X		
SENATOR HAGER	X		
SENATOR JACOBSON			X
SENATOR PIPINICH	X		
SENATOR RYE	X		
SENATOR TOWE	X		
SENATOR ECK	X		

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 04/10/91 H Bill No. 994 Time 5:10 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATOR JACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary

Chairman

Motion: Senator Towe moved adoption of the amendments denoted in
Exhibit #1. There being no objections the motion carried.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 04/10/91 H Bill No. 994 Time 5:15 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATOR JACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary

Chairman

Motion: Senator Towe moved concurrence as amended. There being
no objections the motion carried.

4-10-91

DATE 7
Senate Public Health

HB 693, Thomas

(Please leave prepared statement with Secretary)

SENATE STANDING COMMITTEE REPORT

Page 2 of 2
April 11, 1991

Page 1 of 2
April 11, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 994 (third reading copy -- blue), respectfully report that House Bill No. 994 be amended and as so amended be concurred in:

1. Title, line 19.
Following: "SECTIONS"
Insert: "50-2-118,"

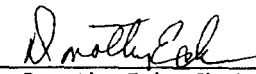
2. Page 15, line 12.
Following, line 11
Insert: "Section 18. Section 50-2-118, MCA, is amended to read:
"50-2-118. Powers and duties of local health officers. (1)
Local health officers or their authorized representatives shall:
(a) make inspections for sanitary conditions;
(b) as directed by the local board, issue written orders for the destruction and removal of filth which might cause disease;
(c) with written approval of the department, order buildings or facilities where people congregate closed during epidemics;
(d) on forms provided by the department, report communicable diseases to the department each week;
(e) before the first day of January, April, July, and October, give a report to the local board of sanitary conditions in the county, city, city-county, or district, together with a detailed account of his activities, on forms and containing information required by the department;
(f) before the 10th day after the report is given to the local board, send a copy of the report required by subsection (1)(e) of this section to the department;
(g) as prescribed by rules adopted by the department, establish and maintain quarantines;
(h) as prescribed by rules adopted by the department, supervise the disinfection of places at the expense of the local board when a period of quarantine ends;
(i) notify the department of his appointment and changes in membership of the local board;
(j) file a complaint with the appropriate court if this chapter or rules adopted by the local board or state department under this chapter are violated;
(k) validate state licenses issued by the department in accordance with chapters 50, ~~51~~, and ~~52~~ through 53 of this title.
(2) With approval of the department, local health officers may forbid persons to assemble in a place if the assembly endangers public health.

(3) A local health officer who is a physician may be placed in charge of a communicable disease hospital, but a local health officer who is a physician is not required to act as a physician to the indigent.

(4) A local health officer who is not a physician shall not act as a physician to anyone."
Renumber: subsequent sections

3. Page 15, line 19.
Following: "7 through"
Strike: "18"
Insert: "19"

Signed: _____


Dorothy Eck, Chairman


M. H. 91
amd. Coord.

SB 411 12:50
Sec. of Senate

HOUSE BILL NO. 994

INTRODUCED BY HANSEN, BROOKE, DOLEZAL, G. BECK, J. BROWN,
SQUIRES, J. DEBRUYCKER, STRIZICH, KEATING
BY REQUEST OF THE DEPARTMENT OF HEALTH AND
ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE LICENSING
OF PUBLIC SWIMMING POOLS AND PUBLIC BATHING PLACES;
AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL
SCIENCES TO ADMINISTER A LICENSING PROGRAM AND TO ADOPT
RULES; ESTABLISHING LICENSE FEES; PROVIDING FOR THE
VALIDATION OF LICENSES BY LOCAL HEALTH OFFICERS OR BOARDS;
AUTHORIZING THE DEPARTMENT TO ENTER INTO COOPERATIVE
AGREEMENTS FOR THE INSPECTION OF PUBLIC SWIMMING POOLS AND
PUBLIC BATHING PLACES AND FOR ENFORCEMENT; PROVIDING FOR THE
PAYMENT OF A PORTION OF THE FEES TO LOCAL GOVERNMENTS FOR
INSPECTION AND ENFORCEMENT; PROVIDING FOR ADMINISTRATIVE AND
JUDICIAL ENFORCEMENT; PROVIDING FOR THE RECOVERY OF
ENFORCEMENT COSTS AND FOR CIVIL PENALTIES; AMENDING SECTIONS
50-2-118, 50-53-102, 50-53-103, AND 50-53-104, MCA; AND
PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because
[section 2] requires the department of health and

environmental sciences to adopt rules relating to licensing
of public swimming pools and public bathing places,
enforcement procedures, cooperative agreements, procedures
for hearings to be held by local boards of health, and
performance standards for local boards of health, health
officers, and sanitarians. Sanitation and safety standards
contained in rules already adopted by the department and
currently published in Title 16, chapter 10, subchapters 12,
13, and 15, Administrative Rules of Montana, may be
incorporated into new department rules as standards for
licensing public swimming pools and public bathing places.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-53-102, MCA, is amended to read:

"50-53-102. **Definitions.** As used in this chapter,
unless the context clearly indicates otherwise, the
following definitions apply:

(1) "Department" means the department of health and
environmental sciences, provided for in Title 2, chapter 15,
part 21.

(2) "Local board of health" or "board" means a local
board as defined in 50-2-101.

(3) "Local health officer" or "officer" means a local
health officer as defined in 50-2-101.

+2+(4) "Person" means a person, firm, partnership,



corporation, organization, the state, or any political subdivision of the state.

~~†3†~~(5) "Public bathing place" means a body of water with bathhouses and related appurtenances operated for the public.

~~†4†~~(6) "Public swimming pool" means an artificial pool and bathhouses and related appurtenances for swimming, bathing, or wading, including natural hot water pools. The term does not include:

(a) swimming pools located on private property used for swimming or bathing only by the owner, members of his family, or their invited guests; or

(b) medicinal hot water baths for individual use."

Section 2. Section 50-53-103, MCA, is amended to read:

"50-53-103. Sanitation-and-safety Department rules. (1) The department shall adopt rules relating to the operation of public swimming pools and public bathing places, including rules:

(a) setting standards to ensure sanitation and safety in public swimming pools and public bathing places to protect public health and safety;

(b) relating to the licensing of operators of public swimming pools and public bathing places;

(c) providing procedures for the enforcement of the laws and rules relating to public swimming pools and public

bathing places;

(d) relating to cooperative agreements between the department and local boards of health; and

(e) setting performance standards for local boards of health, local health officers, and sanitarians to meet as a condition to receipt of funds provided by the department pursuant to [section 17].

(2) Any rule relating to the design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings or installation of equipment in buildings is effective only when it has been adopted by the department of commerce as part of the state building code and filed with the secretary of state pursuant to 50-60-204."

Section 3. Section 50-53-104, MCA, is amended to read:

"50-53-104. Powers of health officers -- enforcement authority. Authorized employees of the department and local boards of health may:

(1) at reasonable times inspect public swimming pools and public bathing places and otherwise conduct investigations to determine if provisions of this chapter and rules of the department have been or are being violated and make reports to the department concerning the inspections;

(2) request an injunction from the district court to

1 enjoin actions in violation of this chapter or rules adopted
2 by the department;

3 (3) bring actions to abate nuisances maintained in
4 violation of this chapter in the manner provided by law for
5 the summary abatement of other public nuisances;

6 (4) ~~enforce---rules---adopted---by---the---department~~ file
7 complaints with the district court for assessment of the
8 penalties provided for in [section 15] or for recovery of
9 costs provided for in [section 16], or both."

10 **NEW SECTION. Section 4.** License required -- exemption
11 -- validation. (1) Except as provided in subsection (3), a
12 person may not operate a public swimming pool or public
13 bathing place without annually obtaining a license from the
14 department.

15 (2) A separate license is required for each public
16 swimming pool or public bathing place unless more than one
17 public swimming pool is operated on the same premises by the
18 same person, in which case a single license is required for
19 all public swimming pools on the premises.

20 (3) The state or a political subdivision of the state
21 owning or operating a public swimming pool or public bathing
22 place is not required to obtain a license under subsection
23 (1) but must comply with the health and safety requirements
24 in 50-53-101 through 50-53-109 and [sections 4 through 17]
25 and the rules of the department.

1 (4) A license issued by the department is not valid
2 unless signed in accordance with [section 7] or in
3 accordance with [section 8], in the case of an appeal.

4 **NEW SECTION. Section 5.** Application for and right to
5 license. (1) An application for both an original and renewal
6 license to operate a public swimming pool or public bathing
7 place must be made to the department, must contain the
8 information required by the department, and must be
9 accompanied by the fee provided for in [section 6].

10 (2) A license must be issued to an applicant who has
11 satisfied the requirements for a license provided in
12 50-53-101 through 50-53-109, [sections 4 through 17], and
13 department rules.

14 (3) Upon issuing a license, the department shall
15 forward the license to the appropriate local health officer
16 for validation as provided in [section 7].

17 **NEW SECTION. Section 6.** License fee and late fee --
18 disposition. (1) (a) Except as provided in subsection
19 (1)(b), each application for an original or renewal license
20 must be accompanied by a license fee of \$75.

21 (b) The fee for an original or renewal license for a
22 public swimming pool or public bathing place operated in
23 conjunction with a public accommodation is \$50.

24 (2) An operator of a public swimming pool or public
25 bathing place who fails to renew a license by the expiration

1 date provided in [section 9] and who operates the public
 2 swimming pool or public bathing place in the license year
 3 for which no renewal fee was paid shall, upon renewal, pay
 4 to the department a late renewal fee of \$25 in addition to
 5 the renewal fee required by subsection (1). Payment of the
 6 late renewal fee does not relieve the operator of
 7 responsibility for any operation without a license.

8 (3) The department shall deposit 85% of the fees
 9 collected under subsection (1) in the state special revenue
 10 fund to the credit of the local board inspection fund
 11 account created by 50-2-108. Money deposited in the local
 12 board inspection fund account is subject to appropriation by
 13 the legislature for the purposes of [section 17].

14 (4) The department shall deposit 15% of the fees
 15 collected under subsection (1) and all the fees collected
 16 under subsection (2) in an account in the state special
 17 revenue fund to be appropriated by the legislature to the
 18 department for the enforcement of 50-53-101 through
 19 50-53-109 and [sections 4 through 17].

20 NEW SECTION. **Section 7. Validation of license required**

21 -- validation by local officer. (1) A license issued by the
 22 department under 50-53-101 through 50-53-109 and [sections 4
 23 through 17] is not valid until it is signed by the local
 24 health officer of the jurisdiction in which the public
 25 swimming pool or public bathing place is located.

1 (2) The local health officer shall, within 15 days of
 2 receipt of the license, validate or refuse to validate the
 3 license. Failure of the officer to validate a license is a
 4 refusal for the purposes of [section 8].

5 NEW SECTION. **Section 8. Refusal of health officer to**
 6 **validate -- appeal to board.** (1) A local health officer may
 7 refuse to validate a license issued by the department under
 8 50-53-101 through 50-53-109 and [sections 4 through 17] only
 9 if the officer determines that the license applicant has not
 10 met the requirements for the issuance of a license under
 11 50-53-101 through 50-53-109, [sections 4 through 17], and
 12 the rules of the department. If the local health officer
 13 refuses to validate a license, the officer shall notify the
 14 license applicant and the department of the refusal within 5
 15 days of his decision. The notice must state the grounds for
 16 the refusal.

17 (2) The license applicant may appeal the decision of
 18 the local health officer to the local board of health by
 19 filing a written notice of appeal with the officer and the
 20 board within 30 days of the officer's refusal or within 30
 21 days of the expiration of the period for the officer's
 22 decision under [section 7], whichever is first.

23 (3) Upon filing the notice of appeal, the license
 24 applicant is entitled to a hearing before the board to
 25 determine the applicant's eligibility for a license under

50-53-101 through 50-53-109, [sections 4 through 17], and the rules of the department. The hearing must be held pursuant to the contested case procedure of the Montana Administrative Procedure Act. If the board finds that the applicant is entitled to a validated license, the chairman of the board shall validate the license by signing the license.

NEW SECTION. Section 9. License expiration -- nontransferability. (1) A license issued under 50-53-101 through 50-53-109 and [sections 4 through 17] expires on December 31 of the year of issuance unless it is suspended or canceled by the department before that date.

(2) A license issued under 50-53-101 through 50-53-109 and [sections 4 through 17] is not transferable.

NEW SECTION. Section 10. Cooperative agreements -- inspections. (1) The department may enter into cooperative agreements with local boards of health to authorize those boards to act as agents of the department and to conduct inspections of and enforce applicable statutes and department rules relating to public swimming pools and public bathing places within the jurisdictions of the respective boards.

(2) The department or a local board of health, pursuant to a cooperative agreement, shall annually conduct:

(a) at least one full facility inspection and one

critical point inspection of each public swimming pool or public bathing place operated throughout the year; and

(b) at least one full facility inspection of each seasonal public swimming pool or public bathing place.

NEW SECTION. Section 11. Denial, suspension, or cancellation of license -- multiple pool facility. (1) The department may deny, suspend, or cancel a license if it finds that the license applicant or licensee has violated 50-53-101 through 50-53-109, [sections 4 through 17], or the rules of the department and has failed or refused to remedy or correct the violation in accordance with the procedure provided in [section 13].

(2) If the license of an operator who operates more than one public swimming pool under one license is denied, suspended, or canceled, the use of all of the public swimming pools on the premises must cease unless the department determines that the violation for which the license was denied, suspended, or canceled does not affect the operation or the use of all of the public swimming pools on the premises.

NEW SECTION. Section 12. Administrative enforcement -- notice -- department hearing. (1) A license may not be denied, suspended, or canceled or corrective action may not be ordered by the department unless the department delivers to the license applicant or licensee a written notice of

1 violation that contains a written statement of the facts
 2 constituting the violation and a citation to the statute or
 3 rule of the department alleged to have been violated. No
 4 further administrative enforcement action may be taken by
 5 the department pursuant to the notice if within 10 days
 6 after receipt of the notice, the license applicant or
 7 licensee complies with the provisions of [section 13].

8 (2) The department may combine with any notice issued
 9 under subsection (1) an order for the suspension or
 10 cancellation of a license or for corrective action as the
 11 department finds necessary to remedy the violation evidenced
 12 in the notice. The order becomes final 10 days after service
 13 unless within that time the license applicant or licensee
 14 requests a hearing pursuant to subsection (4) or submits a
 15 corrective action plan in accordance with [section 13].

16 (3) The department may combine with any notice or order
 17 issued under subsection (1) or (2) an order for the license
 18 applicant or licensee to appear before the department within
 19 a time specified by the department and show cause why the
 20 department should not deny, suspend, or cancel the license
 21 or otherwise order compliance with 50-53-101 through
 22 50-53-109, [sections 4 through 17], and the rules of the
 23 department.

24 (4) A hearing requested by a license applicant or
 25 licensee must be made in writing to the department and must

1 specify the mistake in the facts or law relied on by the
 2 department. A hearing held pursuant to this section must be
 3 held in accordance with the contested case procedure of the
 4 Montana Administrative Procedure Act. Following a hearing,
 5 the department may issue an appropriate order. Service of
 6 notice or an order mailed by the department is complete upon
 7 mailing.

8 NEW SECTION. **Section 13. Compliance with corrective**
 9 **action plan as bar to further administrative enforcement.**
 10 The department may not deny, suspend, or cancel the license
 11 or require corrective action of an operator of a public
 12 swimming pool or public bathing place who received a notice
 13 of violation from the department pursuant to [section 12]
 14 if:

15 (1) the operator submits a plan to correct the
 16 violation to the department within 10 days of service of the
 17 notice;

18 (2) the department approves the plan in writing,
 19 including the time in which the plan must be complied with;
 20 and

21 (3) the operator complies with the plan within the time
 22 period prescribed by the department.

23 NEW SECTION. **Section 14. Return of license for**
 24 **alteration or destruction.** Upon cancellation of a license or
 25 the right to operate one or more public swimming pools under

1 a single license for the premises, the operator of the
2 public swimming pool shall return the license to the
3 department for destruction of the license or deletion of the
4 listing of the public swimming pool affected by the
5 cancellation. Cancellation by the department of a license to
6 operate a public swimming pool is effective notwithstanding
7 the refusal or failure of an operator to return the license
8 to the department.

9 NEW SECTION. Section 15. Civil penalties -- other
10 enforcement not barred. (1) A person who violates a
11 provision of 50-53-101 through 50-53-109 and [sections 4
12 through 17], the rules of the department implementing those
13 sections, an order of the department, or any condition of a
14 license issued by the department is subject to a civil
15 penalty not to exceed \$500 for each violation. ~~Each--day--of~~
16 ~~violation-constitutes-a-separate-violation-~~

17 (2) An action for collection of a civil penalty under
18 this section does not bar administrative enforcement under
19 [section 12], an action for injunctive relief under
20 50-53-104, or enforcement under 50-53-109.

21 NEW SECTION. Section 16. Recovery of costs by
22 department or local jurisdiction. In a civil or criminal
23 action brought by the department or a local jurisdiction to
24 enforce the requirements of 50-53-101 through 50-53-109 and
25 [sections 4 through 17], the rules of the department, or any

1 condition of a license or to assess civil penalties and in
2 an action brought by the department to enforce an order of
3 the department, the court may, IN THE CASE OF AN INTENTIONAL
4 VIOLATION OF 50-53-101 THROUGH 50-53-109 AND [SECTIONS 4
5 THROUGH 17], assess the operator of the public swimming pool
6 or public bathing facility for the costs of any
7 investigation and the costs of the civil or criminal action,
8 including reasonable attorney fees.

9 NEW SECTION. Section 17. Department to pay board for
10 inspections or enforcement, or both. (1) By June 30 of each
11 year, the department shall pay to a local board of health
12 established under 50-2-104, 50-2-106, or 50-2-107 an amount
13 from the local board inspection fund account, created by
14 50-2-108, for the purpose of inspecting public swimming
15 pools and public bathing places licensed under 50-53-101
16 through 50-53-109 and [sections 4 through 17] or for taking
17 appropriate enforcement action with respect to the public
18 swimming pools and public bathing places, or for both
19 inspection and enforcement. The payment required by this
20 section must be made to a board only if the board and any
21 local health officer and sanitarian for the jurisdiction of
22 the board meet the program performance standards established
23 by department rules.

24 (2) Money received by the board pursuant to subsection
25 (1) may be used only for the purpose of inspections and

1 enforcement under 50-53-101 through 50-53-109 and [sections
2 4 through 17] and must be used to supplement and not
3 supplant other money received by the board for the same
4 purpose.

5 (3) The department may use money in the local board
6 inspection fund account appropriated to the department for
7 the enforcement of 50-53-101 through 50-53-109, [sections 4
8 through 17], and the rules of the department and for
9 inspections to determine compliance with those sections and
10 rules in any local jurisdiction not receiving payment under
11 subsection (1).

12 **SECTION 18. SECTION 50-2-118, MCA, IS AMENDED TO READ:**

13 **"50-2-118. Powers and duties of local health officers.**

14 (1) Local health officers or their authorized
15 representatives shall:

16 (a) make inspections for sanitary conditions;

17 (b) as directed by the local board, issue written
18 orders for the destruction and removal of filth which might
19 cause disease;

20 (c) with written approval of the department, order
21 buildings or facilities where people congregate closed
22 during epidemics;

23 (d) on forms provided by the department, report
24 communicable diseases to the department each week;

25 (e) before the first day of January, April, July, and

1 October, give a report to the local board of sanitary
2 conditions in the county, city, city-county, or district,
3 together with a detailed account of his activities, on forms
4 and containing information required by the department;

5 (f) before the 10th day after the report is given to
6 the local board, send a copy of the report required by
7 subsection (1)(e) of this section to the department;

8 (g) as prescribed by rules adopted by the department,
9 establish and maintain quarantines;

10 (h) as prescribed by rules adopted by the department,
11 supervise the disinfection of places at the expense of the
12 local board when a period of quarantine ends;

13 (i) notify the department of his appointment and
14 changes in membership of the local board;

15 (j) file a complaint with the appropriate court if this
16 chapter or rules adopted by the local board or state
17 department under this chapter are violated;

18 (k) validate state licenses issued by the department in
19 accordance with chapters ~~50-51-7~~ and 52 through 53 of this
20 title.

21 (2) With approval of the department, local health
22 officers may forbid persons to assemble in a place if the
23 assembly endangers public health.

24 (3) A local health officer who is a physician may be
25 placed in charge of a communicable disease hospital, but a

1 local health officer who is a physician is not required to
2 act as a physician to the indigent.

3 (4) A local health officer who is not a physician shall
4 not act as a physician to anyone."

5 NEW SECTION. **Section 19.** Codification instruction.
6 [Sections 4 through 17] are intended to be codified as an
7 integral part of Title 50, chapter 53, and the provisions of
8 Title 50, chapter 53, apply to [sections 4 through 17].

9 NEW SECTION. **Section 20.** Effective dates. (1)
10 [Sections 2, 6, and this section] are effective on passage
11 and approval.

12 (2) [Sections 1, 3 through 5, and 7 through ~~18~~ 19] are
13 effective January 1, 1992.

-End-